

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**CHARGE AGAINST EMPLOYER**

**INSTRUCTIONS:**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
10-CA-095012	12/14/12

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer MCDONALD'S		b. Tel. No. (b) (6), (b) (7)(C)
d. Address (street, city, state ZIP code) 195 AKRON DR WINSTON SALEM, NC 27105-3545	e. Employer Representative (b) (6), (b) (7)(C)	c. Cell No.
		f. Fax No.
		g. e-Mail
i. Type of Establishment (factory, nursing home, hotel) restaurant	j. Principal Product or Service food service	h. Dispute Location (City and State) WINSTON SALEM, NC
		k. Number of workers at dispute location 65

I. The above-named employer has engaged in and is engaging unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

**2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)**

On or about (b) (6), (b) (7) 2012, the above-named Employer terminated the employment of (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) engaged in protected concerted activities.

**3. Full name of party filing charge (if labor organization, give full name, including local name and number)**

(b) (6), (b) (7)(C)

**4a. Address (street and number, city, state, and ZIP code)**

(b) (6), (b) (7)(C)

**4b. Tel. No.****4c. Cell No.**

(b) (6), (b) (7)(C)

**4d. Fax No.****4e. e-Mail**

(b) (6), (b) (7)(C)

**5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**

(b) (6), (b) (7)(C)

**6. (b) (6), (b) (7)(C) the statements are true to the best of****Tel. No.****Office, if any, Cell No.**

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

**Print Name and Title****Date:**

12-7-12

**Fax No.****e-Mail**

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**  
**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decline to invoke its processes.

(b) (6), (b) (7)(C)



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11  
4035 UNIVERSITY PKWY STE 200  
WINSTON SALEM, NC 27106-3275

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (336)631-5201  
Fax: (336)631-5210

Agent's Direct Dial: (336)631-5291

November 28, 2012

(b) (6), (b) (7)(C)

Re: MCDONALD'S

Dear (b) (6), (b) (7)(C)

Pursuant to our conversation, enclosed is a Charge Against Employer form. If you wish to file this charge with us, please do the following:

- ✓ Make any necessary corrections on the form
- ✓ Fill in any incomplete spaces
- ✓ Sign and date the form where indicated at the bottom
- ✓ Return the form to the above address or fax number

You may also wish to keep a copy of the charge for yourself. Once we receive a signed charge from you, we will give it a case number and assign a Board agent to investigate the case. We will then send you a letter telling you the case number and the name of the investigator.

Please remember that to be timely, your charge must be filed and served on the charged party within six months of the alleged unlawful actions. We normally send a copy of the charge to the charged party, but if you are running close to the 6-month deadline, be advised that it is your responsibility to see that the Employer receives a copy of the charge within the 6-month period. Feel free to contact me if you have any questions or need further assistance. If I am not in, please ask to speak to the Information Officer.

Very truly yours,

/s/ Sarah S. Bencini/pln

Sarah S. Bencini  
Field Attorney

SSB/pln

## CHARGE/PETITION ASSIGNMENT SHEET

SS NZCASE NO.: 10-CA-095012CASE NAME: McDonaldsDATE FILED: 12-14-12CATEGORY: ☐ 1 ☐ 2 ☒ 3Potential 10(j) ☒

8(a)(2) (indicated name of union):

# discriminatees

# of Employees (if not currently on charge)

8(a)(3):

IO charge? Yes: ☐ No: ☐

#

Dispute City &amp; State:

W-S, NC

## COMMENTS:

Barg Status:

- ☐ Existing Contract ☐ Seeking Successor Contract  
☐ Seeking Initial Contract ☐ Initial Contract  
☐ None ☐ Organizational Campaign

Hot Topics

- ☐ Discharge Organizational Campaign  
☐ Cessation of Dues Check-off  
☐ Information Request for Financial Records  
☐ Post Arbitration Deferral  
☐ Social Media  
☐ Use of Employer e-Mail  
☐ Recess Appointments

Group/Relate Yes: ☐ No: ☐AMENDMENT REASON:

- ☐ Add Allegations  
☐ Remove Allegations  
☐ Change in Body of Charge  
☐ Deficiency on Charge  
☐ Other  
☐ Change in Parties' Name and/or Address

Have all allegations been disposed of as a result of this action (i.e., withdrawn, dismissed, amended, deferred, settled, submitted to advice, or contained in an issued complaint)? (Must be answered)

YES

NO

AGENT:

JS

SUPERVISOR:

LRS

BLOCKING CASES: REQUEST TO PROCEED FILED (DATE):

C CASES - (ENTER R Case number blocked)

Unit ID: ☐ A (automatic default) ☐ C  
☐ B ☐

Unit Scope:

- ☐ Less than Facility Wide  
☐ Facility Wide ☐ Multi-Employer

8(a)(1)

- ☐ Coercive Actions (Surveillance, etc)  
☐ Coercive Rules  
☐ Coercive Statements (Threats, Promises of Benefits, etc.)  
☒ Concerted Activities (Retaliation, Discharge, Discipline)  
☐ Denial of Access  
☐ Interrogation (including Polling)  
☐ Lawsuits  
☐ Weingarten

8(a)(3)

- ☐ Changes in Terms and Conditions of Employment  
☐ Discharge (Including Layoff and Refusal to Hire (not salting))  
☐ Discipline  
☐ Lockout  
☐ Refusal to Consider/Hire Applicant (salting only)  
☐ Refusal to Reinstate E'ee/Striker (e.g. Laidlaw)  
☐ Retaliatory Lawsuit  
☐ Shutdown or Relocate/ Subcontract Unit Work  
☐ Union Security Related Actions

8(a)(2)

- ☐ Assistance  
☐ Domination  
☐ Unlawful Recognition

<p align="center"><u><b>8(a)(4)</b></u></p> <p><input type="checkbox"/> Changes in Terms and Conditions of Employment</p> <p><input type="checkbox"/> Discharge (including Layoff and Refusal to Hire)</p> <p><input type="checkbox"/> Discipline</p> <p><input type="checkbox"/> Refusal to Reinstate Employee/Striker</p> <p><input type="checkbox"/> Shutdown or Relocate/ Subcontract Unit Work</p>	<p align="center"><u><b>8(a)(5)</b></u></p> <p><input type="checkbox"/> Alter Ego</p> <p><input type="checkbox"/> Failure to Sign Agreement</p> <p><input type="checkbox"/> Refusal to Furnish Information</p> <p><input type="checkbox"/> Refusal to Recognize</p> <p><input type="checkbox"/> Repudiation/Modification of Contract Sec 8(d)/Unilateral Changes</p> <p><input type="checkbox"/> Shutdown or Relocate (e.g. First National Maint.).Subcontract Work</p> <p><input type="checkbox"/> Refusal to Bargain/Bad faith Bargaining (incl'g Surface Bargaining/direct dealing)</p>
<p align="center"><u><b>8(b)(1)(A)</b></u></p> <p><input type="checkbox"/> Coercion, incl'g Statements and Violence</p> <p><input type="checkbox"/> Discipline (including charges/fines)/Harassment</p> <p><input type="checkbox"/> Duty of Fair Representation, incl'g Superseniority, denial of access</p> <p><input type="checkbox"/> Hiring Halls</p> <p><input type="checkbox"/> Picketing/Strike Actions</p> <p><input type="checkbox"/> Rules: Coercive</p> <p><input type="checkbox"/> Union Dues and/or Membership Related (including excessing fees)</p>	<p align="center"><u><b>8(e)</b></u></p> <p><input type="checkbox"/> All Allegations against a Labor Organization</p> <p><input type="checkbox"/> All Allegations against an Employer</p>
<p align="center"><u><b>8(b)(1)(B)</b></u></p> <p><input type="checkbox"/> Fund Contribution Related</p> <p><input type="checkbox"/> Lawsuits</p> <p><input type="checkbox"/> Other Allegations</p> <p><input type="checkbox"/> Statements/Threats/Violence</p>	<p align="center"><u><b>8(g)</b></u></p> <p><input type="checkbox"/> All Allegations</p>
<p align="center"><u><b>8(b)(2)</b></u></p> <p><input type="checkbox"/> Hiring Hall Related</p> <p><input type="checkbox"/> Lawsuits</p> <p><input type="checkbox"/> Union Security Related Actions</p> <p><input type="checkbox"/> Causing Employee to Discriminate/Retaliate</p> <p align="center"><u><b>8(b)(3)</b></u></p> <p><input type="checkbox"/> Failure to Sign Agreement</p> <p><input type="checkbox"/> Refusal to Bargain/Bad Faith or Surface Bargaining</p> <p><input type="checkbox"/> Refusal to Furnish Information</p> <p><input type="checkbox"/> Repudiation/Modification of Contract</p>	<p align="center"><u><b>8(b)(4)(A)</b></u></p> <p><input type="checkbox"/> Lawsuits/Grievances</p> <p><input type="checkbox"/> Picketing/Handbilling</p> <p><input type="checkbox"/> Statements</p>
	<p align="center"><u><b>8(b)(4)(B)</b></u></p> <p><input type="checkbox"/> Lawsuits/Grievances</p> <p><input type="checkbox"/> Picketing</p> <p><input type="checkbox"/> Statements</p>
	<p align="center"><u><b>8(b)(4)(C)</b></u></p> <p><input type="checkbox"/> Lawsuits/Grievances</p> <p><input type="checkbox"/> Picketing</p> <p><input type="checkbox"/> Statements</p>
	<p align="center"><u><b>8(b)(5)</b></u></p> <p><input type="checkbox"/> All allegations</p>
	<p align="center"><u><b>8(b)(6)</b></u></p> <p><input type="checkbox"/> All allegations</p>
	<p align="center"><u><b>8(b)(7)(A)</b></u></p> <p><input type="checkbox"/> All Allegations</p>
	<p align="center"><u><b>8(b)(7)(B)</b></u></p> <p><input type="checkbox"/> All Allegations</p>
	<p align="center"><u><b>8(b)(7)(C)</b></u></p> <p><input type="checkbox"/> All Allegations</p>
	<p> </p>



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Fax: (336)631-5210

December 17, 2012

(b) (6), (b) (7)(C)

MCDONALD'S  
195 AKRON DR  
WINSTON SALEM, NC 27105-3545

Re: MCDONALD'S  
Case 10-CA-095012

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Examiner JODI A. SUBER whose telephone number is (336)631-5220. If this Board agent is not available, you may contact Supervisory Attorney LISA R. SHEARIN whose telephone number is (336)631-5256.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be

considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

**Procedures:** We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, [www.nlr.gov](http://www.nlr.gov). However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov) or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Claude T Harrell Jr". The signature is written in a cursive, slightly slanted style.

Claude T. Harrell, Jr.  
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

Revised 3/21/2011

## NATIONAL LABOR RELATIONS BOARD

**QUESTIONNAIRE ON COMMERCE INFORMATION**

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

MCDONALD'S

CASE NUMBER

10-CA-095012

**1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)****2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION  
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

**4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS****5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

**9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates )****YES NO**A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.  
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.  
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.  
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (*Check the largest amount*)  
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. **Did you begin operations within the last 12 months?** If yes, specify date: \_\_\_\_\_**10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (*If yes, name and address of association or group.*)**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

**12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE**NAME AND TITLE (*Type or Print*)

SIGNATURE

E-MAIL ADDRESS

DATE

**PRIVACY ACT STATEMENT**

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**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**MCDONALD'S**

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

**Case 10-CA-095012**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on December 17, 2012, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

MCDONALD'S

195 AKRON DR

WINSTON SALEM, NC 27105-3545

December 17, 2012

Date

Yvette Teel, Designated Agent of NLRB

Name

/s/ Yvette Teel

Signature





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NATIONAL LABOR RELATIONS BOARD

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Fax: (336)631-5210

December 17, 2012

(b) (6), (b) (7)(C)

Re: MCDONALD'S  
Case 10-CA-095012

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on December 14, 2012 has been docketed as case number 10-CA-095012. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge will be investigated by Field Examiner JODI A. SUBER whose telephone number is (336)631-5220. If the Board agent is not available, you may contact Supervisory Attorney LISA R. SHEARIN whose telephone number is (336)631-5256.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

**Procedures:** We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website [www.nlrb.gov](http://www.nlrb.gov). However, the Agency will continue to accept timely filed

paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website [www.nlr.gov](http://www.nlr.gov) or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Claude T Harrell Jr". The signature is written in a cursive, slightly slanted style.

Claude T. Harrell, Jr.  
Regional Director

**From:** [Shearin, Lisa R.](#)  
**To:** [Suber, Jodi A.](#)  
**Subject:** McDonalds charge  
**Date:** Sunday, December 16, 2012 12:17:24 PM

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Jodi:

I'm assigning a discharge case to you for pca-it's local (Winston-Salem) discharge. I know that you will be out but perhaps you will be able to call (b) (6), (b) (7)(C) today.

It is in your territory (Eastern Nc)-they switched yesterday (12/15).

Thanks.

**From:** [Shearin, Lisa R.](#)  
**To:** [Suber, Jodi A.](#)  
**Subject:** McDonalds  
**Date:** Monday, December 17, 2012 8:40:43 AM

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Please place in NXGEN once you get case number.

This is to note that this is a Cat 3 in your territory, which switched on Saturday. I am aware you are going on leave tomorrow and are not expected back until January 8.

Many other agents are also on extended leave at this time, and those remaining are loaded up with end-of-the-month and other work. Accordingly, I have made this assignment believing that no other agent could get to this case more readily.

Lisa

**From:** [Wiley, Carla L.](#)  
**To:** [Suber, Jodi A.](#)  
**Subject:** RE: McDonald's 10-CA-095012  
**Date:** Tuesday, December 18, 2012 3:13:00 PM

---

No problem. Happy Holidays!

---

**From:** Suber, Jodi A.  
**Sent:** Tuesday, December 18, 2012 3:12 PM  
**To:** Wiley, Carla L.  
**Subject:** Re: McDonald's 10-CA-095012

Please email her a copy of the charge. I am out of the office until jan.

Thanks

Sent from my iPhone

On Dec 18, 2012, at 1:20 PM, "Wiley, Carla L." <[Carla.Wiley@nrlb.gov](mailto:Carla.Wiley@nrlb.gov)> wrote:

Jodi: The attorney for the Employer just called and wants a copy of the charge. I am going to give her your number. I saw in NxGen that you were assigned this case.

Carla L. Wiley  
Field Attorney  
NLRB Region 10  
233 Peachtree Street NE  
Harris Tower Suite 1000  
Atlanta, GA 30303  
404-331-2857-directline  
404-331-2858-fax

**From:** [Shearin, Lisa R.](#)  
**To:** [Suber, Jodi A.](#)  
**Subject:** Re: McDonalds  
**Date:** Thursday, December 20, 2012 4:37:45 PM

---

Well I did not say anything thank goodness.

*Sent via DroidX2 on Verizon Wireless™*

-----Original message-----

**From:** "Suber, Jodi A." <Jodi.Suber@nlrb.gov>  
**To:** "Shearin, Lisa R." <Lisa.Shearin@nlrb.gov>  
**Sent:** Thu, Dec 20, 2012 21:11:09 GMT+00:00  
**Subject:** Re: McDonalds

Okay. Jones Day is representing the employer

Sent from my iPhone

On Dec 20, 2012, at 1:40 PM, "Shearin, Lisa R." <[Lisa.Shearin@nlrb.gov](mailto:Lisa.Shearin@nlrb.gov)> wrote:

(b) (6), (b) (7)(C) (I think the (b) (6), (b) (7)(C) of McDonalds) called and asked me to call (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C). When I called that number it said I was trying to reach a number that was unreachable.

I then called (b) (6), (b) (7)(C) (the number on the charge) and just left a message that I had called (b) (6), (b) (7)(C), I was unable to reach (b) (6), (b) (7)(C) at that other number, and that I was calling in regard to (b) (6), (b) (7)(C) I did not state what agency I was with but merely gave my name.



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Telephone: (336)631-5201  
Fax: (336)631-5210

Agent's Direct Dial: (336)631-5220

January 15, 2013

(b) (6), (b) (7)(C)

Re: MCDONALD'S  
Case 10-CA-095012

Dear (b) (6),  
(b) (7)(C)

You filed the above charge on December 14, 2012. By letter dated December 17, 2012, you were advised that as the Charging Party it is your responsibility to meet with the Board agent assigned to investigate your charge in order to provide a sworn affidavit. You were further advised that if you failed to cooperate by promptly presenting your evidence your charge may be dismissed without investigation.

During a telephone conversation on (b) (6), (b) (7)(C), 2013, you indicated you could only meet with me at the Regional office to provide an affidavit on (b) (6), (b) (7)(C) due to your (b) (6), (b) (7)(C). Given your schedule, I requested that you come to the Regional office on (b) (6), (b) (7)(C) to provide your affidavit. You said you would call me (b) (6), (b) (7)(b) (6), to confirm your availability. You did not call me. Consequently, I left you a voice mail later that day and reminded you that you were supposed to confirm whether you would be able to meet with me to provide an affidavit on (b) (6), (b) (7)(C). You were advised that you needed to provide your affidavit by no later than (b) (6), (b) (7)(C) and if you failed to do so I would have no alternative but to recommend that your charge be dismissed for lack of cooperation. Finally, you were advised that if you were unable to cooperate at this time, you could withdraw your charge and refile it when you were able to cooperate.

You returned my phone call and advised me that your (b) (6), (b) (7)(C) was (b) (6), (b) (7)(C) and you said you would meet with me at the Regional office and provide an affidavit on (b) (6), (b) (7)(C). However, you failed to show up for your scheduled appointment and you did not call me to reschedule it. Moreover, you failed to return my phone call and respond to the voice mail message I left on your phone concerning your missed appointment.

As I stated in my voice mail to you on this date, I have rescheduled your appointment to come to the Regional office to provide a sworn affidavit to (b) (6), (b) (7)(C), 2013 (b) (6), (b) (7)(C). Your failure to make yourself available on the above-date at the designated time and/or your failure to contact me prior to the above date and request to reschedule will result in the dismissal

of your charge due to your failure to cooperate with the investigation. I can be reached at 336.631.5220 with voice mail or by email at [jodi.suber@nlrb.gov](mailto:jodi.suber@nlrb.gov). If you wish to reschedule your affidavit, please be advised that you must make yourself available by no later than (b) (6), (b) (7)(C) [REDACTED], **2013**. You should also be aware that if your charge is dismissed, a copy of the letter will be sent to all parties involved. Moreover, the reasons for the dismissal of your charge will be included in the letter unless you request otherwise.

In the event that you cannot cooperate at this time due to other obligations, I have enclosed a withdrawal request form. Simply sign and date the withdrawal request form where indicated and return it to me by no later than close of business on (b) (6), (b) (7)(C) [REDACTED] **2013**. You can fax it to me at 336.631.5210 or mail it in the return envelope I have enclosed for your convenience. You may also leave me a voice mail stating you no longer wish to proceed with the charge at this time and request that the charge be withdrawn. Please note that if I do not receive the signed and dated withdrawal request form or a voice mail from you withdrawing the charge by (b) (6), (b) (7)(C) [REDACTED] your charge will be dismissed for the reasons cited above. Please note that should you elect to withdraw your charge, under Section 10(b) of the National Labor Relations Act, you must re-file the charge within 6 months of the alleged violations of misconduct by the Union.

Sincerely,

/s/ Jodi A. Suber

JODI A. SUBER  
Field Examiner



**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

**WITHDRAWAL REQUEST**

In the matter of **MCDONALD'S**

Case **10-CA-095012**

This is to request withdrawal of the charge in the above case.

**(b) (6), (b) (7)(C)** \_\_\_\_\_  
(Name of Party Filing Charge)

By: \_\_\_\_\_

An Individual \_\_\_\_\_  
(Title)

Date: \_\_\_\_\_

Withdrawal request approved:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Office in Charge, Subregion 11  
National Labor Relations Board

## CASEHANDLING LOG

Date	Person Contacted	Method of Contact	Description of Contact or Activity
12/17			Rec'd charge via email
12/17/12	CP	Phone	<p>Due to my scheduled vacation that begins 12/18, I called the CP (b) (5), (b) (6), (b) (7)(C)</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
1/8/13			Returned to office
1/8/13	CP	Phone	<p>Asked CP when (b) (5) would be available to come to office to provide affidavit. (b) (5), (b) (6), (b) (7)(C)</p> <p>[REDACTED]</p>

			(b) (5), (b) (6), (b) (7)(C). Asked (b) (5), (b) (6) to leave v/m if I was unavailable and I would call (b) (5), (b) (6) back.
1/10	CP	Phone	v/m for CP. Reminded (b) (5), (b) (6) that (b) (5), (b) (6) was supposed to call me this a.m. to let me know whether (b) (5), (b) (6) would be available to provide an affidavit (b) (5), (b) (6), (b) (7)(C). [REDACTED] Asked to call me asap.
1/10	CP	Phone	CP's (b) (5), (b) (6), (b) (7)(C) [REDACTED]
1/15	CP	Phone	Called CP (b) (5), (b) (6), (b) (7)(C) [REDACTED] Again, I asked (b) (5), (b) (6) to call me asap.
1/15	CP	Phone	p/c from CP. (b) (5), (b) (6), (b) (7)(C) [REDACTED]
1/16/2013			RBL—received email from LS that Jodi is out with sick baby. I told her I can (b) (5), (b) (6), (b) (7)(C).
1/16/2013			(b) (5), (b) (6), (b) (7)(C).
1/16	CP	Phone	v/m from CP. (b) (5), (b) (6), (b) (7)(C) [REDACTED]
1/17	CP	Phone	v/m for CP. (b) (5), (b) (6), (b) (7)(C) [REDACTED]

			<p>(b) (5), (b) (6), (b) (7)(C)</p> <p>Asked (b) (5), (b) (6) to call me.</p>
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UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11  
4035 UNIVERSITY PKWY STE 200  
WINSTON SALEM, NC 27106-3275

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (336)631-5201  
Fax: (336)631-5210

February 1, 2013

(b) (6), (b) (7)(C)

Re: McDonald's  
Case 10-CA-095012

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that McDonald's has violated the National Labor Relations Act.

**Decision to Dismiss:** In view of your lack of cooperation in investigating this case, I have determined that further proceedings are not warranted at this time and I am dismissing your charge.

By letter dated December 14, 2012, you were advised that as the charging party it was your responsibility to meet with the Board agent assigned to investigate your charge and provide a sworn Board affidavit. You were further advised that if you failed to cooperate in the investigation by failing to promptly present your evidence your charge could be dismissed without an investigation.

The Board agent assigned to investigate your charge requested that you provide a Board affidavit on (b) (6), (b) (7)(C), 2013. Although you stated you would confirm that appointment on (b) (6), (b) (7)(C) you did not. Thereafter, you were advised that failure to provide your affidavit by no later than (b) (6), (b) (7)(C) could result in the dismissal of your charge for lack of cooperation. You offered to provide your evidence on (b) (6), (b) (7)(C) but you failed to show up for your appointment. The Board agent subsequently left you a voice mail on (b) (6), (b) (7)(C) and also sent you a letter advising you that your appointment was rescheduled to (b) (6), (b) (7)(C). You were further advised that your failure to either keep your appointment or call to reschedule would result in the dismissal of your charge for lack of cooperation. You called later that day and said you would provide your evidence on (b) (6), (b) (7)(C). You did not show up for your appointment nor did you call the agent to reschedule the appointment. The Board agent called you again and left you a voice mail advising that you were still scheduled to provide an affidavit on (b) (6), (b) (7)(C) and that your failure to provide your evidence or call to reschedule the taking of your affidavit would result in the immediate dismissal of your charge for lack of cooperation. You failed to show up for your appointment and to date you have not called to reschedule it.

If you wish to refile this charge later when you can cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a

charge must be filed with the NLRB and served on the charged party within six months of the conduct alleged to be unlawful.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at [www.nlrb.gov](http://www.nlrb.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision to dismiss your charge was incorrect.

**Means of Filing:** An appeal may be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax. To file an appeal electronically, go to the Agency's website at [www.nlrb.gov](http://www.nlrb.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

**Appeal Due Date:** The appeal is due on **February 15, 2013**. If you file the appeal electronically, we will consider it timely filed if you send the appeal together with any other documents you want us to consider through the Agency's website so the transmission is completed by **no later than 11:59 p.m. Eastern Time** on the due date. If you mail the appeal or send it by a delivery service, it must be received by the Office of Appeals in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later than **February 14, 2013**.

**Extension of Time to File Appeal:** Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. A request for an extension of time may be filed electronically, by fax, by mail, or by delivery service. To file electronically, go to [www.nlrb.gov](http://www.nlrb.gov), click on **E-File Documents**, enter the NLRB Case Number and follow the detailed instructions. The fax number is (202)273-4283. A request for an extension of time to file an appeal **must be received on or before February 15, 2013**. A request for an extension of time that is mailed or given to the delivery service and is postmarked or delivered to the service before the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed electronically, a copy of any request for extension of time should be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

February 1, 2013

Very truly yours,



Claude T. Harrell Jr.  
Regional Director

Enclosure

cc GENERAL COUNSEL  
OFFICE OF APPEALS  
FRANKLIN COURT BUILDING  
NATIONAL LABOR RELATIONS  
BOARD  
1099 14<sup>TH</sup> STREET, NW  
WASHINGTON, DC 20570

(b) (6), (b) (7)(C)

MCDONALD'S  
195 AKRON DR  
WINSTON SALEM, NC 27105-3545

(b) (6), (b) (7)(C)

MCDONALD'S  
2300 S STRATFORD RD  
WINSTON SALEM, NC 27103-6224

JILL S. STRICKLIN  
CONSTANGY BROOKS & SMITH,  
LLC  
100 N CHERRY ST  
STE 300  
WINSTON SALEM, NC 27101-4016

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**APPEAL FORM**

To: General Counsel  
Attn: Office of Appeals  
National Labor Relations Board  
Room 8820, 1099 - 14th Street, N.W.  
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

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Case Name(s).

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Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

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*(Signature)*